

UNITED STATES DISTRICT COURT

for the

Southern District of Texas

Victoria Division

Charles E Lee

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one) ☒ Yes ☐ No

AARON DEMERSON, TWC, COMMISSION APPEALS
TOFV LLC, TOYOTA OF VICTORIA

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	CHARLES E LEE
Street Address	416 MARINER DRIVE
City and County	VICTORIA
State and Zip Code	TEXAS
Telephone Number	361-579-6885
E-mail Address	CHARLES.L0407@GMAIL.COM

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	TWC AARON DEMERSON
Job or Title <i>(if known)</i>	COMMISSIONER REPRESENTING EMPLOYERS
Street Address	101 EAST 15TH ST SUITE 608
City and County	AUSTIN
State and Zip Code	TEXAS 78778-0001
Telephone Number	1-800-252-3749 or 512-463-2807
E-mail Address <i>(if known)</i>	appeals@twc.texas.gov

Defendant No. 2

Name	TOFV, TOV, LLC THERESA GUTIERREZ MAHAN
Job or Title <i>(if known)</i>	HR MANAGER
Street Address	5902 N NAVARRO ST
City and County	VICTORIA
State and Zip Code	TX 77904-1763
Telephone Number	361-578-1505
E-mail Address <i>(if known)</i>	theresag@toyotaofvictoria.com

Defendant No. 3

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	
Job or Title <i>(if known)</i>	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☐

Federal question

☒

Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

N/A

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, *(name)* Charles E Lee, is a citizen of the
State of *(name)* Texas.

b. If the plaintiff is a corporation

The plaintiff, *(name)* TWC Commission of Appeals, is incorporated
under the laws of the State of *(name)* Texas,
and has its principal place of business in the State of *(name)*
Texas.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, *(name)* N/A, is a citizen of
the State of *(name)* N/A. Or is a citizen of
(foreign nation) N/A.

b. If the defendant is a corporation

The defendant, (name) THERESA GUTIERREZ MAHAN, is incorporated under the laws of the State of (name) TEXAS, and has its principal place of business in the State of (name) TEXAS.
Or is incorporated under the laws of (foreign nation) N/A, and has its principal place of business in (name) TOFV LLC.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

UNPAID UNEMPLOYMENT BENEFITS 5600.00
PLUS PANDEMIC BENEFITS 4800.00
VACATION TIME 1500.00
SICK TIME AND LOST HOLIDAY PAY 3500.00 TOTAL \$15,400.00
ANY OTHER MONETARY FUNDS FOR HARDSHIP AS DEEMED BY COURT

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

THE ACTION IS BROUGHT BY PETITIONER PURSUANT TO CHAPTER 212 OF THE TEXAS UNEMPLOYMENT COMPENSATION ACT SUBCHAPTER E, AND CONCERNS THE DENIAL OF UNEMPLOYMENT COMPENSATION BENEFITS TO PETITIONER. PETITIONER SHOWS THE COURT THAT NO FILING FEE OR OTHER CHARGES MAY BE CHARGED BY THE COURT OR ANY OFFICER THEREOF IN CONNECTION WITH THIS PROCEEDING, PURSUANT TO TEX. LABOR CODE ANN. §207.007. THE FINAL DECISION WAS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE. TWC DID NOT CONSIDER THE LAW OR FACTS AND IT WAS UNREASONABLE, ARBITRARY, AND CAPRICIOUS. TWC BASED DECISION ON HALF TRUTHS.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

(A) DENIED REQUEST OF COPY OF EMPLOYEE HANDBOOK REQUESTED (B) DENIED COPIES TO ALLEGED INCIDENTS LEADING UP TO DISMISSAL. (C) DENIED OUTCOME OF INVESTIGATION REQUESTED TO ADVOCATE TO KEEP EMPLOYMENT WHEN TERMINATED MAY 29, 2020. PETITIONER HAS EXHAUSTED ALL APPEALS AND HEARINGS AT THIS SAID TIME. CHAPTER 212 TEXAS UNEMPLOYMENT ACT SUBCHAPTER E STATES THAT A PARTY AGGRIEVED BY A FINAL DECISION OF THE COMMISSION MAY OBTAIN JUDICIAL REVIEW OF THE DECISION BY BRINGING ACTION AGAINST THE COMMISSION IN A COURT OF COMPETENT JURISDICTION IN THE COUNTY OF CLAIMANT'S

RESIDENCE FOR A TRIAL DE NOVO REVIEW OF DECISION.

WHEREFORE PETITIONER PRAYS THAT BOTH RESPONDENTS BY MADE TO THE COMMISSIONER OF LABOR PURSUANT TO _____ (B) THAT THE COURT SET UP A BRIEFING SCHEDULE AND PUT THIS CASE ON A MOTION CALENDAR FOR ORAL ARGUMENTS (C) THAT THIS COURT REVIEW AND REVERSE THE DECISION OF THE BOARD OF REVIEW, OR REMAND IT TO THE AGENCY AS IT DEEMS APPROPRIATE AND (D) THAT THIS COURT GRANTS SUCH OTHER AND FURTHER RELIEF AND IT DEEMS EQUITABLE AND JUST.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 06/29/2022

Signature of Plaintiff

Charles E Lee

Printed Name of Plaintiff

CHARLES E LEE

B. For Attorneys

Date of signing: 06/29/2022

Signature of Attorney

N/A

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address